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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,083	07/08/2003	Tung-Cheng Kuo	JCLA7853-D	9675

7590 02/19/2004

J.C. Patents
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EXAMINER

LE, THAO P

ART UNIT	PAPER NUMBER
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2818

DATE MAILED: 02/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/616,083	KUO ET AL.	
	Examiner	Art Unit	
	Thao P Le	2818	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 10/128716.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Preliminary Amendment

1. Preliminary Amendment filed on 7/8/03 has been entered.

In Preliminary Amendment, applicant cancels claims 8-14 without prejudice or disclaimer, and 1-7 are remained for examination.

2. This application is a Divisional of the application serial number 10/128,715, filed on September 10, 1998, now U.S. Patent No. 6,620,694.

Priority

3. Acknowledge is made of applicants' claim for foreign priority base on an application 91105280 filed in Taiwan on 03/20/2002.

Oath/Declaration

4. The oath/declaration filed on 7/8/03 is acceptable.

Title

5. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Specification

6. The specification has been checked to the extent necessary to determine the presence of all possible minor errors. However, the applicant's cooperation is

requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections

7. *The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).*

8. *A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).*

9. *Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).*

10. Claims 1-7 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over **claim 1 of Patent No. 6,469,342.**

Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims seem to differ from U.S. Patent No. 6,469,342 in that the claimed invention of the instant application recites "a contact 112 (Fig. 1B) disposed over the substrate electrically connecting with the word-line 106, and a protective metal line 116 electrically connecting with the contact 112" while the U.S. Patent No. 6,469,342, however, claimed "the protective metal line 138 (Fig. 2B) is electrically connected to the word-line 108". It would have been obvious to one having ordinary skill in the art at the time the invention was made to recognize that the protective metal line is only electrically connected to the word-line by a plug, an interconnect, or a contact in order to define the non-volatile memory. The word-line and protective metal line are insulated by a dielectric layer and electrically connected by an opening filled with conductive material for electrical connection, thus, the opening filled with conductive material that electrically connects the word-line to the protective metal line is called interconnect or contact.

11. When responding to the office action, Applicants' are advice to provide the examiner with the line numbers and page numbers in the application and/or references cited to assist the examiner to locate the appropriate paragraphs.

12. A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) day from the day of this letter. Failure to respond within the period for response will cause the application to become abandoned (see M.P.E.P 710.02(b)).

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thao P Le whose telephone number is 571-272-1785. The examiner can normally be reached on M-T (8:00-6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms can be reached on 571-272-1787. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thao P. Le